IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 646 OF 2006

Igatpuri Municipal Council..... .....
Petitioner
V/s
Praveen Govind Revar & Anr..... .....
Respondents.

Mr.P.S.Dani with Ms.Sharavari Shailendra, Adv. for the petitioner.

Ms.PritamTendulkar i/by M.S.Karnik for respondent No.1.

CORAM: A.P. DESHPANDE, J.
11.4.2007

PC:

Rule.

Rule made returnable forthwith. Taken up for final hearing by consent of both the parties.

Igatpuri Municipal Council has filed the instant writ petition taking exception to the judgment and order passed by the Industrial Court in ULP Complaint No.210/00 whereby the Industrial Court allowing the complaint has declared that the present petitioner has indulged in unfair labour practice under item 9 of Schedule IV of the MRTU & PULP Act. A further direction is issued to the petitioner to desist from unfair labour practice by granting promotion to the complainant in the cadre of Clerk within a stipulated period.

2. The respondent claims to be working with the petitioner with effect from 3.9.95 as sweeper and belongs to schedule caste category. He also claims to have passed XII standard examination and hence is eligible for

being appointed to the post of a clerk. As the petitioner had not given promotion to the respondent the said complaint came to be filed. It is the case of the respondent that one Vandana Sampat Vadaje has been working with the petitioner from 11.8.95 and though junior to the respondent she was granted promotion with effect from 1.7.99 as library clerk. It is also the case of the respondent that one Maya Vivekanand Kedar who is working with the petitioner from 22.9.97 as peon was granted promotion as clerk, whereas the complainant has been deprived of the right to his promotion. On the said facts the complaint was filed. The main grievance of the petitioner is that after arguments were closed, behind the back of the petitioner the respondent submitted some documents without affording any opportunity to the petitioner to put its say in that regard before the Industrial Court. It is matter of record and not in dispute that the documents were submitted along with written submissions by the respondent and the petitioner did not have any opportunity to put forth his case touching said documents. The learned counsel for the petitioner has pointed out the observation made in para 5 of the judgment which goes to show that the complainant did file along with written submissions documents below Ex.U-16 which contained resolutions passed by the Council and on consideration of the said documents the Industrial Court has found that Smt.Kedar was granted the post of library clerk. Similar appears to be the case in relation to Smt.Maya Rokade. By reference to the documents submitted for the first time along with written submissions the Industrial Court seems to have reached the conclusion that the respondent-complainant was discriminated against by denying the

promotion. The grievance made by the petitioner appears to be well founded. The Industrial Court could not have permitted the respondent to file documents along with written submissions without serving the same o the petitioner and the Industrial Court could not have considered the said documents without affording an opportunity to the petitioner to put forth it say on the said documents. To that extent the impugned order passed by the Industrial Court is thus in breach of principles of natural justice and the matter is required to be remanded back. In the result the impugned order passed by the Industrial Court dated 22.11.05 is quashed and set aside. The matter is remanded back to the Industrial Court for afresh decision of the complaint in accordance with law after affording an opportunity of being heard to both the parties. As the complaint is of the year 2000I deem it proper to direct the Industrial Court to decide the complaint after remand within a period of four months. Rule made absolute in above terms with no order as to costs.